

Electronic and Information Technology (EIT) Accessibility

Department of Commerce (DOC) Electronic and Information Technology (EIT) Accessibility Policy:

All DOC operating units (**bookmark to list of operating units covered by policy**) shall comply with the EIT accessibility standards for individuals with disabilities published by the Architectural and Transportation Barriers Compliance Board (Access Board) on December 21, 2000, when procuring, developing, maintaining, or using EIT. If complying with these standards would constitute an undue burden, then requests for relief from the standards must be submitted to the DOC Chief Information Officer (CIO).

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What is EIT accessibility?

Revised Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. § 794d) mandates that electronic and information technology (EIT) be accessible to individuals with disabilities in the Federal Government and to members of the public seeking information from the Federal Government. DOC EIT accessibility policy addresses the effort to ensure that individuals with disabilities who are either Commerce employees using Commerce EIT resources or members of the public seeking Commerce information or services have comparable access to these resources. Comparable access means that the individual

with the disability has access to and use of information and data comparable to that of a person without a disability.

In general, an information technology system is accessible to people with disabilities if it can be used in a variety of ways that do not depend on a single sense or ability. For example, a system that provides output only in audio format would not be accessible to people with hearing impairments, and a system that requires mouse actions to navigate would not be accessible to people who cannot use a mouse because of a dexterity or visual impairment. Section 508 focuses on the overall accessibility of electronic and information technology systems, not on providing accommodations at individual work sites. Section 504 of the Rehabilitation Act requires Federal agencies to provide reasonable accommodations for individuals with disabilities; it generally covers individual work sites but not overall technology systems. Even with an accessible system, individuals with disabilities may still need specific accessibility-related software or peripheral devices as an accommodation to be able to use it. For example, in order to use an accessible word-processing program, a person who is blind may need add-on software that reads text aloud; if the word-processing program could not be made compatible with a screen-reading program, it might not be accessible.

What EIT resources are covered?

Electronic and information technology (EIT) includes IT as defined in the Clinger-Cohen Act of 1996 and electronic equipment such as information kiosks, FAX machines, copiers, pagers, and telephones. This policy addresses the acquisition, development, maintenance, or use of application software, Web sites, and telecommunications (both data and voice). This policy covers IT resources, as defined by the Clinger-Cohen Act, at the Department of Commerce. It does not address office equipment, e.g., copiers or FAX machines.

Who does this policy apply to?

This policy applies to all Department of Commerce operating units, including the Office of the Secretary.

What are the key dates associated with Section 508?

The final Section 508 *Accessibility Standards* ([link here – http://www.access-board.gov/news/508-final.htm](http://www.access-board.gov/news/508-final.htm)) were published by the Architectural and Transportation Barriers Compliance Board (Access Board) on December 21, 2000. The standards become enforceable six months after that date and revised Section 508 of the Rehabilitation Act fully applies at that time. Section 508 is not retroactive; goods purchased, in-house developed applications, and IT applications developed under contract prior to June 21, 2001, are not subject to enforcement of the Section 508 standards. However, consistent with the legislation, after June 21, 2001, the DOC policy is to provide Section 508 compliant EIT for individuals with disabilities unless an

undue burden can be documented whether the application is developed in-house or contracted out. If an undue burden is established, then an alternative means of access must be provided. DOC policy further encourages the operating units to make applications developed prior to June 21, 2001, which continue to be in use and maintained after June 21, 2001, compliant where practicable.

The Section 508 *Federal Acquisition Regulation (FAR) rule* ([link here - http://www.section508.gov/regulations/html](http://www.section508.gov/regulations/html)) is in force as of June 25, 2001. This rule states that all contracts awarded after June 25, 2001, must be Section 508 compliant, except indefinite-delivery indefinite-quantity (IDIQ) contracts. For IDIQ contracts, the FAR rule is applicable to delivery orders or task orders issued on or after June 25, 2001.

What other IT policy areas are affected by EIT accessibility?

IT planning and budgeting. Resources to acquire assistive technologies, support services to contract for expertise to make software applications compliant, and funding to purchase EIT hardware and software that are compliant must be included in operational IT plans. (**bookmark to Section H bullet under What must operating units due to comply with Section 508?**)

Acquisition. When acquiring EIT, DOC operating units must comply with the Access Board accessibility EIT standards after June 21, 2001. The enforcement provisions of Section 508 take effect when the Federal Government procures EIT goods and services. Section 508 incorporates both administrative and legal enforcement mechanisms if non-compliant EIT is procured.

Workforce issues. Supervisors should do the following:

- C Ensure that the assistive technology needs of their employees with disabilities are met.
- C Direct that EIT systems be developed to meet the Section 508 standards (36 CFR Part 1194).
- C See that needs assessments for employees with disabilities are provided.
- C Be familiar with policy guidance on facilitating the provision of *reasonable accommodation* ([Link here to http://www.eeoc.gov/docs/accommodation_procedures.html](http://www.eeoc.gov/docs/accommodation_procedures.html)) to employees with disabilities.

What are the regulatory requirements regarding EIT accessibility?

Section 508 of the Rehabilitation Act of 1973 was amended in 1998 to require Federal agencies to ensure that any time the Government procures, develops, maintains, or uses electronic and information technology, it is accessible to persons with disabilities. The enforcement provisions of Section 508, i.e., administrative and court remedies,

apply only when a Federal agency procures goods or services. Federal employees using EIT are covered by the provisions of Section 508 as well as members of the public seeking information from the government, unless exception to the accessibility standards applies or an undue burden can be documented. An undue burden is defined as a "significant difficulty or expense." The law is not retroactive; it is enforceable only for items/services procured after June 21, 2001.

Under Section 508's management provisions, the Department of Justice (DOJ) is to report to the President and the Congress on accessibility of Federal EIT every two years. DOJ first surveyed Federal agencies in 1999. Agencies were required through a self-administered questionnaire to assess their software applications, Internet sites, electronic equipment, and telecommunications capabilities for accessibility. The 2001 survey took place in March 2001 and focused on Web accessibility only.

What other regulations affect EIT accessibility?

Section 501 of the Rehabilitation Act - Section 501 of this act prohibits discrimination on the basis of disability in Federal employment and requires Federal agencies to establish affirmative action plans for the hiring, placement, and advancement of people with disabilities in Federal employment.

Section 504 of the Rehabilitation Act - Section 504 prohibits discrimination based on disability in Federally funded and Federally conducted programs or activities in the United States, including employment programs.

Section 505 of the Rehabilitation Act - Section 505 establishes the enforcement procedures for Title V of the Rehabilitation Act. Section 505 (a) (1) provides that the procedures and rights set forth in Section 717 of the Civil Rights Act of 1964 shall be available with respect to any complaint under Section 501. Section 505 (a)(2) provides that the remedies, rights, and procedures set forth in Title VI of the Civil Rights Act of 1964 shall be available to any person alleging a violation of Section 504. Section 508 is also enforced through the procedures established in Section 505 (a)(2).

Section 255 of the Telecommunications Act of 1996 - Section 255 requires manufacturers of telecommunications equipment and providers of telecommunications services to ensure that such equipment and services are accessible to persons with disabilities, if readily achievable. The Federal Communications Commission's Report and Order implementing Section 255 was released in September 1999. Individuals with disabilities should have access to telephones, cellular phones, pagers, call-waiting capabilities, and operator services.

How is Section 508 different from other policies affecting EIT accessibility?

Section 508 is technology-centered and focuses on whether mainstream EIT products meet the Access Board's Section 508 Standards, even if an agency has not identified employees or members of the public with disabilities who will be using the EIT.

The reasonable accommodation provisions **of Section 504 are person-centered** and focus on how a specific individual's disability should be accommodated in a particular setting.

See sample Section 504 versus Section 508 *illustrations (bookmark to examples)*.

What are the exceptions to meeting the Section 508 technical standards?

- C National Security systems.
- C EIT acquired by a contractor that is incidental to the contract.
- C The installation of specific accessibility software and devices is not required for Federal employees who do not have a disability.
- C If an agency provides access to the public to information using EIT at a specific location, then the agency is not required to provide individuals with disabilities access at another location. For example, if an agency maintains an electronic catalogue of its holdings at a library, then that catalogue need only be accessible at the location of that library.
- C The Section 508 standards do not require that a fundamental alteration in the nature of a product or its components be imposed to make the product accessible. For example, requiring large screen displays for pocket-sized devices such as pagers would fundamentally alter the product.
- C Products located in spaces frequented only by service personnel for maintenance, repair, or occasional monitoring of equipment are not required to comply with the Section 508 standards. For example, servers located in computer rooms are exempt.
- C If making the EIT resource comply with the Section 508 standards would constitute an *undue burden (bookmark to undue burden determination process)*.
- C Micro-purchases under \$2500 until January 1, 2003. This exception is for a one-time purchase that totals \$2500 or less, made on the open market rather than on an existing contract.

Who approves exceptions to the Section 508 standards?

The DOC Chief Information Officer (CIO) will approve exceptions for those acquisitions that are submitted to the Office of the CIO according to the acquisition thresholds set forth in the *IT Acquisition Initiatives policy* (***link to DOC IT Acquisition Policy***). For acquisitions under the Departmental thresholds, the operating unit CIOs will approve these exceptions to the Section 508 standards.

What is the role of the Department regarding EIT accessibility?

The Department will appoint an EIT Accessibility Coordinator who will disseminate information on EIT accessibility matters to the operating units and facilitate cooperation among them on accessibility issues. The EIT Accessibility Coordinator's duties will include the following:

- C Develop and maintain the DOC EIT accessibility policy
- C Schedule and lead EIT Accessibility Coordinator meetings.
- C Participate in employee groups dealing with accessibility issues.
- C Participate in Government-wide accessibility activities.
- C Administer the Department of Justice biennial survey within the Department.
- C Ensure that employees with disabilities have the appropriate assistive technologies by directing them to (and providing transportation as necessary) to the various *government centers* (***bookmark to list of centers***) that perform assistive technology needs assessments for individuals with disabilities or demonstrate the capabilities of assistive technology.
- C Provide sources for assistance for assessing and complying with EIT accessibility standards.
- C Retain documentation on undue burden determinations.

Who is the Department's EIT Accessibility Coordinator?

Diana Hynek, who can be reached at (202) 482-0266 or dhynek@doc.gov.

What must operating units do to comply with Commerce EIT accessibility policy?

- C Appoint an operating unit EIT Accessibility Coordinator.
- C Ensure that the operating unit EIT Accessibility Coordinator attends Departmental IT Accessibility Coordinator meetings.

- C Administer the Department of Justice biennial survey within the operating unit and report results to the Department's EIT Accessibility Coordinator.
- C Ensure that employees with disabilities have the appropriate assistive technologies by directing them to and providing transportation as necessary to the various *government facilities (bookmark to list of centers)* that perform assistive technology needs assessments for individuals with disabilities or demonstrate the capabilities of assistive technology.
- C Make adequate resources available to acquire the specific assistive technologies required for their employees with disabilities.
- C Comply with the Access Board's Section 508 standards (36 CFR Part 1194) (link to <http://www.access-board.gov/news/508-final.htm>) for procuring, developing, maintaining, and using EIT that will be accessed by both employees and members of the public. All procurements after June 21, 2001, must comply with the Section 508 standards unless an exception applies or an undue burden can be documented.
- C Test for Section 508 compliance with the Access Board's standards for software applications and Web applications. See DOC Web Masters Best Practice 3 (link to <http://www.doc.gov/WebResources>) for Web testing help.
- C Address the existing operating unit Web pages and software applications. While it is not required, an Assessment Plan (***bookmark to the Assessment Plan***) would provide an organized approach to identifying and dealing with these assets.
- C Adhere to the DOC Web Masters Web Accessibility Standard 6 (link to <http://www.doc.gov/WebResources>).
- C Include a Section 508 compliance requirement in all EIT statements of work. See FAR Section 508 rule (link to <http://www.section508.gov/regulations/html/>)
- C Include a Section H in Part II of the OMB Circular A-11, Exhibit 300B (***link to 300B format***) addressing Section 508 for all acquisitions submitted to the Office of the CIO. See the *IT Acquisition Initiatives policy (link to DOC IT Acquisition Policy)* for IT acquisition operating unit thresholds for OCIO submission. This section should address whether the proposed IT acquisition will be compliant, qualifies for an *exception (bookmark to Exceptions)*, or will be addressed in a request for an *undue burden determination (bookmark to Undue Burden)*.
- C Apply for an undue burden determination, if necessary, and establish alternative methods for access.

- C Document and retain all undue burden determinations made by the operating unit CIO.

What is an operating unit Section 508 Assessment Plan?

- C Although the enforcement provisions of Section 508 are only invoked when the government procures goods or services, the Department of Commerce policy requires that all DOC EIT, whether procured or developed in-house after June 21, 2001, complies with the Section 508 standards. To help implement this DOC policy, all operating units should prepare an Assessment Plan to demonstrate a good faith effort to comply with the Section 508 standards.
- C In preparing an operating unit Assessment Plan, operating units should note that Section 508 of the Rehabilitation Act is not retroactive. By law (Revised Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. § 794d), software applications and Web pages developed prior to June 21, 2001 do not have to be made compliant with Section 508. However, DOC policy encourages the operating units to make applications developed prior to June 21, 2001, which continue to be in use and maintained after June 21, 2001, compliant where practicable.
- C Each operating unit should assess the operating unit's level of EIT accessibility compliance. Include only those systems and applications that were in existence prior to and will be in use after June 21, 2001. These assessments should be conducted for application software and Web-based applications (both Internet and intranet). The operating unit's Assessment Plan need not include self-contained products, video and multimedia products, and telecommunications.
- C Identify those operating unit software applications and Web-based applications that are exempt from the Section 508 standards and note the specific exemption being invoked. Although EIT in place before June 21, 2001, is exempt from the enforcement of Section 508 standards, there may be instances when an operating unit elects to remediate these EIT resources. The DOC OCIO policy is to encourage operating units to make EIT in existence prior to June 21, 2001, accessible when that EIT will continue to be in use and maintained after June 21, 2001. See *What are the exceptions to meeting the Section 508 standards?* (**bookmark to Exceptions**) section of this policy for the list of exemptions.
- C Identify any systems or applications that the operating unit determines cannot meet the Section 508 standards because meeting the standards would cause an undue burden. The system or application name, specific Section 508 standards that cannot be met, and a date to review the undue burden determination must be included for each system, application, or Web site that will not be made compliant.

- C Select and prioritize any remediation work to be done and develop a timetable to achieve compliance for each system/application identified. We recommend that operating units start with making public Web sites compliant as well as intranets used by employees and administrative software applications, such as time and attendance. Remediation priority should also be given to applications developed by contractors. See a sample *assessment plan template* (**bookmark to sample Section 508 Assessment Plan template**).
- C There are a variety of ways to help test for Section 508 compliance for Web pages, although none is definitive in and of itself or ensures compliance. Consult the *DOC Web Accessibility Standard 6 “Where to find more information”* (link to <http://www.doc.gov/WebResources>) for useful Web sites and tools. For testing Section 508 compliance for software applications, we recommend using testers familiar with assistive technology, such as screen readers.
- C The operating unit Section 508 Assessment Plan should include a timetable for assessment and remediation of software applications and Web-based applications; identify exempt systems; and identify systems requiring an undue burden determination.
- C The CIO of the operating unit, with the concurrence of the Chief Financial Officer (CFO) of the operating unit, should submit the Assessment Plan to the DOC CIO.
- C The operating unit Section 508 Assessment Plan should be considered a living document and be updated annually.

What is the Undue Burden Determination request process at the Department level?

For operating unit systems requiring Department *acquisition approval* (**link to DOC IT acquisition policy**) and for which it has been deemed necessary to seek an undue burden determination, this request must accompany the acquisition initiative documentation. The Chief Information Officer (CIO) of the operating unit, with the concurrence of the Chief Financial Officer (CFO) of the operating unit, must submit the undue burden request to the DOC CIO. At the discretion of the DOC CIO, these systems will be reviewed either by the DOC CIO or by the Commerce Information Technology Review Board (CITRB). In either case, the operating unit should include the following in their DOC submission:

- C Briefly describe the proposed system development or infrastructure improvement.
- C Describe the market research done to assess availability of Section 508-compatible products, if applicable.

- C Identify the specific Section 508 Access Board standard(s) that cannot be met.
- C Quantify the effort in time and money to make the proposed system/resource compliant with the Section 508 standards.
- C Describe the alternative method that will be employed so that the employee or user with disabilities can access the system and/or obtain information. Examples of alternative methods are voice, FAX, relay service TTY, Internet posting, captioning, text-to-speech synthesis, and audio description.
- C Include a review date when the undue burden decision will be reassessed.
- C Provide the cost of the alternative method and its proposed implementation date.

The Commerce Information Technology Review Board (CITRB), which acts as an advisor to the Chief Information Officer (CIO), will make a recommendation to the CIO to approve or disapprove the undue burden request for those acquisitions that it reviews. The DOC CIO will then sign a determination of an undue burden for the system under consideration by the CITRB and for those undue burden requests submitted to DOC but not reviewed by the CITRB. The Department's EIT Accessibility Coordinator will keep records of all undue burden determination decisions.

What is the Undue Burden Determination request process at the operating unit level?

For procurement of systems under the DOC acquisition threshold, the program official should prepare a request to the operating unit CIO including the same information required in the *Departmental process (bookmark to Departmental process)*. The operating unit EIT Accessibility Coordinator should serve as a resource to the program official in preparing the request for an undue burden determination. The operating unit CIO will make the determination, maintain the undue burden documentation, and also send a copy to the Department EIT Accessibility Coordinator.

Where can I get additional information about EIT accessibility?

The Office of the CIO's *IT Accessibility Web site (link here to OIPPR IT Accessibility site)* provides additional information as does the *Federal Accessibility Initiative site (link here to <http://www.section508.gov>)*.

Links (link here to <http://www.access-board.gov/links/communication.htm>) that include government, industry, and research institutions expert in accessibility issues are provided by the Access Board.

Who can answer questions about this policy?

Contact Diana Hynek, who can be reached at (202) 482-0266 or dhynek@doc.gov.

COMMERCE OPERATING UNITS COVERED BY THIS POLICY

Bureau of the Census
National Institute of Standards and Technology
Bureau of Economic Analysis
National Oceanic and Atmospheric Administration
Bureau of Export Administration
National Telecommunications and Information Administration
Economic Development Administration
National Technical Information Service
Economics and Statistics Administration
Office of the Secretary
International Trade Administration
Minority Business Development Administration
Technology Administration

IT Accessibility Centers

Department of Education, Assistive Technology Demonstration Center
www.ed.gov/offices/OCIO/asstech/index.html
400 Maryland Ave., S.W.
Room 1W104
Washington, D.C.
Hours of Operation: M-F, 9-3 and by appointment
Phone: 202-260-5055; TTY: 202-401-8510

Department of Defense, Computer/Electronic Program Technology Evaluation Center (CAPTEC)
<http://www.tricare.osd.mil/cap/>
5111 Leesburg Pike
Suite 810
Falls Church, VA 22041
Hours of Operation: M-F, 9-3; call ahead for escort
Phone: 703-693-5160; TTY: 703-693-6189; FAX: 703-681-9075

USDA Target Center
<http://www.usda.gov/oo/target.htm>
1400 Independence Ave.
Room 1006-S
Washington, D.C.
Phone: 202-720-2600; TTY: 202-720-2600

Examples of Section 504 versus Section 508 distinctions.

Sample Situation 1: An agency upgrades its e-mail system after June 21, 2001; the prior version of the software was accessible to screen reader software, but the new one is not.

A **Section 504 solution** would be to supply a person to read e-mail messages to a blind individual. This represents a person-centric accommodation that is not comparable access.

For a **Section 508 solution**, the agency must make the e-mail system accessible to screen reader software. This represents a technology-based comparable access solution.

Sample Situation 2: An agency upgrades its video conferencing system after June 21, 2001. The prior equipment did not provide the capability to decode and display captioning for audio material.

504 solution: The video conferencing system is not displaying the captioning. An interpreter is provided to sign the audio material for a deaf scientist. This is a person-centric reasonable accommodation.

508 solution: The video conferencing system must be equipped with the decoder to display the captioning of the audio material. The deaf scientist is reading the captioning. This represents a technology-based access solution.

DEPARTMENT OF COMMERCE -Operating Unit XXX
508 ASSESSMENT PLAN - PROGRESS REPORT DETAILED BREAKOUT
 June 2001

EIT Resource: Internet/ Intranet by file type, Name of Application, etc.	Work Metrics: Total No. of Pages, Lines of Code, Hours to Fix, etc.	Date of Assessment Completion	Exempt?	Contractor Developed?	Compliant Y or N?	Date Repairs Will Be Completed	Request Undue Burden?	Other/ Being Retired, Developed Before 6/21, etc.
Web - Internet/PDFs created before 6/21/01								
Web- Internet/PDFs with text equivalents								
Web - Intranet/forms								
Admin. systems/T&A								
Admin. systems/Travel								

EIT Resource: Internet/ Intranet by file type, Name of Application, etc.	Work Metrics: Total No. of Pages, Lines of Code, Hours to Fix, etc.	Date of Assessment Completion	Exempt?	Contractor Developed?	Compliant Y or N?	Date Repairs Will Be Completed	Request Undue Burden?	Other/ Being Retired, Developed Before 6/21, etc.
Admin. systems/ Training								
Admin. systems/Job Application System								
Custom application- AWIPS								
Custom application- ECASS								

EXPLANATION OF ASSESSMENT PLAN COLUMN HEADINGS

Column 1 EIT Resource: Internet/Intranet by File Type, Name of Application, etc.

List type of EIT resource being assessed. Aggregate by resource type where possible. For Internet/intranets, categorize Web pages by file type, e.g., image/inaccessible PDFs, accessible PDFs. For systems/software applications, list type of system(s) and system name(s).

Column 2 Work Metrics: Total Number of Pages, Lines of Code, Hours to Fix, etc.

For Web pages, software applications, or systems listed in Column 1, provide amount of work required if repairs are deemed necessary. Use metrics appropriate to the specific type of effort required.

Column 3 Date of Assessment Completion

Self-explanatory

Column 4 Exempt?

See list of Section 508 *exceptions* (**bookmark to Exceptions**) and cite specific exception being used.

Column 5 Contractor Developed?

Is the EIT resource (Web page, system, specific software application) developed/maintained by contractors?

Column 6 Compliant Y or N?

Is the EIT resource (Web page, system, specific software application) compliant with the Section 508 standards for the resource identified in Column 1?

Column 7 Date Repairs Will Be Completed

Self-explanatory

Column 8 Request Undue Burden?

If the EIT resource identified in Column 1 cannot be made accessible and will be develop, maintained, or used after 6/21/01, then enter "yes" in this column and follow the *undue burden process* (**bookmark to Undue Burden Determination process**) outlined in this policy.

Column 9 Other/ Being Retired, Developed Before 6/21, etc.

If the EIT resource identified in Column 1 is not exempt from the Section 508 standards, is not compliant, and no undue burden request is contemplated, then state the specific reason why the resource will continue to be available on the Web and/or the application

will still be in use after 6/21/01. For example, Web pages developed prior to 6/21/01 with no text equivalent, in-house system/application developed prior to 6/21/01 with no near term plans to update it, or system that will be retired.